

**MINUTES  
of the  
THIRD MEETING  
of the  
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**August 16-17, 2007  
Taos Convention Center  
Bataan Hall  
120 Civic Plaza Drive  
Taos**

The third meeting of the Courts, Corrections and Justice Committee for the 2007 interim was called to order by Senator Cisco McSorley, co-chair, on Thursday, August 16, 2007, at 10:15 a.m. at the Taos Convention Center in Taos, New Mexico.

**Present**

Sen. Cisco McSorley, Co-Chair  
Sen. Rod Adair  
Rep. Thomas A. Anderson  
Rep. Antonio "Moe" Maestas  
Sen. Richard C. Martinez  
Sen. Lidio G. Rainaldi  
Rep. William "Bill" R. Rehm  
Rep. Peter Wirth  
Rep. Eric A. Youngberg

**Advisory Members**

Rep. Elias Barela  
Rep. Daniel R. Foley  
Sen. Mary Jane M. Garcia (8/17)  
Rep. W. Ken Martinez  
Rep. Jane E. Powdrell-Culbert  
Sen. James G. Taylor (8/16)  
Rep. Teresa A. Zanetti (8/16)

**Absent**

Rep. Al Park, Co-Chair  
Rep. Joseph Cervantes  
Rep. Gail Chasey  
Sen. Kent L. Cravens  
Sen. John T.L. Grubestic  
Sen. Carroll H. Leavell

Sen. Ben D. Altamirano  
Sen. Clinton D. Harden, Jr.  
Sen. Gay G. Kernan  
Sen. Linda M. Lopez  
Sen. William H. Payne  
Sen. John C. Ryan  
Sen. Michael S. Sanchez  
Rep. Sheryl Williams Stapleton  
Rep. Mimi Stewart  
Rep. Thomas E. Swisstack

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Maha Khoury  
Evan Blackstone  
Aldis Philipbar

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Thursday, August 16****Committee Business**

Senator McSorley welcomed committee members and guests.

Town of Taos Mayor Bobby Duran and state Representative Roberto "Bobby" J. Gonzales welcomed the committee.

The committee approved the minutes from the previous meeting.

**Sex Crime Prevention: What Works, What Does Not Work and How to Promote Effective Policies**

Jill S. Levenson, Ph.D., Lynn University, provided the committee with a presentation on sex crime prevention in which she presented myths and facts on sex offenders. Dr. Levenson discussed recidivism rates among sex offenders and presented several studies for the committee to review (see PowerPoint handout). She also stated that some sex offenders are more dangerous than others and some are more likely to re-offend. This fact led her to stress the importance of treatment, as well as a risk-based approach to sex offender policy. She stated that Colorado leads the way in terms of sex offender management policy and is a good model to follow.

Dr. Levenson also discussed sex offender registration and notification laws and their unintended consequences. She stated that registration and notification laws often impede employment stability and social support, two of the most important factors in nonrecidivism and recovery. She also discussed the effects of residence restrictions, which often lead to transiency and homelessness, making it harder to track released sex offenders.

Dr. Levenson's presentation was followed by questions from the committee and discussion of the issues.

**Sex Offender Registration and Notification: Current State Law; Costs and Federal Funds**

John Wheeler, chief counsel, Department of Public Safety (DPS), and crime policy advisor to the governor, reviewed the provisions and requirements of the Sex Offender Registration and Notification Act (SORNA). Mr. Wheeler stated that SORNA attempts to bring a multifaceted approach to a complex problem and was originally developed as a tool to aid law

enforcement. He also stated that he is often told by community residents that they appreciate the information available to the public and have based family and community decisions on the DPS web site listing certain sex offenders. Mr. Wheeler also discussed some of the requirements of the federal Adam Walsh Act, stating that New Mexico is already in compliance with 80 to 90% of the act and that no legislation is currently being proposed by the governor with respect to further compliance with the act. Some states currently have qualms with the Adam Walsh Act because their registration requirements differ and because they do not wish to start registering minors at age 14.

Mr. Wheeler stated that the SORNA costs to DPS are around \$200,000 per year. If New Mexico does not comply with the federal registration and notification requirements, Mr. Wheeler states that the state will lose 10% of its entire federal law enforcement funding (not only 10% of the Byrne Grant) for the period of time the state is out of compliance. Currently, law enforcement funding to New Mexico is \$24 million, so the state would lose \$2.4 million in federal funds if it fails to comply.

Tasia Young, contract lobbyist for the New Mexico Association of Counties, addressed the costs of SORNA and federal funding for the counties. She stated that every county in New Mexico she spoke with said that it has received no federal funds to implement SORNA. Counties may be able to apply for grants but right now, they are getting no money. SORNA generates a large workload and takes personnel away from their primary duties. Some counties estimated the costs of SORNA, with Chaves County estimating a conservative cost of \$67,000 annually and other counties saying that SORNA costs them one full-time person and associated costs. Committee members extrapolated a total cost of around \$2 to \$2.5 million for the 33 counties. The counties stated it is time and money they could not spare, that "keeping up with changes in the law is a full-time job", that the rate of re-offending is low and the primary offense is noncompliance with SORNA. However, the web site is a benefit to communities.

Sheriff Romero, Sheriff Gibson and Deputy Sheriff Alvarez were present and stated that SORNA is a burden on their respective departments.

The presentation was followed by a question and answer session and a discussion with committee members.

### **Parole and GPS Monitoring of Sex Offenders**

Charlene Knipfing, Probation and Parole Division director, New Mexico Corrections Department (NMCD), presented information regarding GPS monitoring of sex offenders. She stated that GPS monitoring is not a preventive measure, but more of a deterrent, and that the NMCD is using active GPS monitoring, costing over \$10,000 per year per sex offender with a total cost of over \$350,000 in 2007. This number is expected to reach over \$2 million by 2009, as more sex offenders are released. For more information, refer to the handout in the original meeting folder.

David Jablonski, NMCD, stated that monitoring sex offenders is burdensome, but that his

department is doing a good job with the resources available. Gary Carson, regional manager for Bernalillo, Valencia and Sandoval counties, stated the counties have seven probation and parole officers and have diversified their strategy to monitor sex offenders in all three counties. Arlene Manzanares, NMCD, has compiled and maintained a master log of all sex offenders statewide. Ella Frank, Adult Parole Board executive director, stated that the Adult Parole Board is very impressed by the efforts of the Probation and Parole Division. Randall Cherry, general counsel, Sex Offender Management Board (SOMB), reviewed the three studies done on GPS monitoring and stated how GPS monitoring may not be appropriate or cost-effective for all sex offenders. The Tennessee study found little or no difference in recidivism rates between sex offenders monitored by GPS and those who were not monitored for low- to moderate-risk offenders. The monitoring may, however, reduce recidivism for moderate- to high-risk offenders.

The presentations were followed by a question and answer session and discussion among committee members and guests.

### **Sex Offender Treatment: Corrections and the Sex Offender Treatment Program (STOP)**

Donald Montoya, director, STOP, New Mexico Behavioral Health Institute, stated that the STOP has grown to 24 beds, but would require an additional 50 beds throughout the state.

Bianca Martinez McDermott, Ph.D., Mental Health Services Bureau chief, NMCD, presented the committee with information regarding sex offender treatment in the NMCD. In her PowerPoint presentation, she outlined statistics on recidivism rates, as well as risk factors, and discussed treatment. Currently, the program only concerns adults. For more information, see the handout in the original meeting folder.

Jim Vincent, program director, Community Reintegration Unit, NMCD, was also present for questioning. The presentations were followed by questions and discussion by the committee.

### **Sex Offender Management in New Mexico: Developing Issues and Solutions**

Judge Michael Vigil, SOMB chair, discussed the accomplishments of the SOMB. He stated that the SOMB conducted a survey of sex offender treatment programs for juveniles and adults in New Mexico to determine which models are most effective and hopes to adopt best practice guidelines that treatment programs can use. He stated there are not enough treatment programs in the state and that SORNA may create a false sense of security. Mr. Cherry was also available for questions by the committee.

The committee recessed at 5:30 p.m.

**Friday, August 17**

**Committee Business**

Senator McSorley tentatively moved the October meeting to 10/8 and 10/9 due to a national workshop on adult and juvenile female offenders that conflicts with the October meeting.

**Border Violence Division: Legislative Proposal on Human Trafficking**

Maria Sanchez-Gagne, assistant attorney general, Border Violence Division, presented a human trafficking bill to make human trafficking illegal in New Mexico. Currently, human trafficking is only a crime under federal law. Ms. Sanchez-Gagne stated that smaller cases of human trafficking often get overlooked because the state does not currently have jurisdiction over them. Ms. Sanchez-Gagne outlined some of the accomplishments of the Border Violence Division, which was created in 2005 to work with Mexico. Senator Garcia, the bill's sponsor, voiced her support for the bill and was available for questions by the committee. Committee members suggested changes to the bill, including eliminating the task force.

**Status of State Crime Laboratory**

John Krebsbach, administrator of New Mexico's DNA database, provided the committee with an update on the implementation of Katie's Law and DNA collection.

Bill Taylor, director, Property Control Division, General Services Department, stated that the legislature authorized \$1 million last session for the design and planning of a state police laboratory to be located in Bernalillo County. The division is moving forward on obtaining bids but will not allow the planning to be site-specific at this time since there is controversy on where the laboratory will be located.

Paul Cook, deputy secretary for administration, DPS, also offered his reasons as to why the laboratory should stay in Santa Fe, stating that moving the laboratory would weaken northern New Mexico economically and providing other reasons that were challenged by committee members. Ann Talbot, Forensic Labs Bureau chief, DPS, stated that there is a backlog because there are unfilled positions and it is difficult to find experienced forensic scientists. A discussion concerning the location of the laboratory and staffing followed.

**Driving Under the Influence of Drugs: Extent of Problem; Scientific Standards**

David Mills, Scientific Laboratory Division director, Department of Health, discussed the status of DUI in New Mexico. He stated that 23,000 breath tests and 2,500 blood tests were conducted last year and that drugs are only tested for if a person shows signs of impairment and registers below a .08 alcohol level. Mr. Mills stated that there is no science that can link a detected level of drugs (e.g., .08) to impairment. He discussed what other states have done in this area.

Franklin Garcia, Traffic Safety Bureau staff manager, Department of Transportation, discussed the protocol for drug testing during a field sobriety test. Christine Frank, Albuquerque Police Department detective and drug recognition expert (DRE) state coordinator, stated that there are currently almost 100 trained DRE officers in the state. Committee members asked questions of the panel and discussed the issues.

#### **Public Comment**

Jeff Shannon, a Taos attorney, urged the committee to include a knowledge requirement in any future changes to the law concerning driving under the influence of drugs. He was concerned with per se provisions and cited examples of people being given drugs without their knowledge.

The committee adjourned at 1:30 p.m.